

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FILED

2004 OCT 18 PM 4:18

AARON PATTERSON,

Plaintiff,

vs.

FORMER CHICAGO POLICE  
LT. JON BURGE, et al.,

Defendants.

U.S. DISTRICT COURT

No. 03 C 4433

Judge Gotschall  
Magistrate Judge Soat-Brown

DOCKETED

OCT 22 2004

**NOTICE OF MOTION**

TO: See Certificate of Service

PLEASE TAKE NOTICE that on **Thursday, October 21, 2004 at 9:30 A.M.**, or as soon thereafter as counsel may be heard, we shall appear before the Honorable Judge Gotschall, or any judge who may be sitting in her stead, in the courtroom usually occupied by her, being Courtroom No. 1919 of the Dirksen Federal Building, 219 South Dearborn, Chicago, Illinois 60604, and present the MOTION TO QUASH SUBPOENAS DIRECTED TO NON-PARTY JOURNALISTS.

Dated: October 18, 2004

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

By:



One of the Attorneys for Non-Parties Chicago  
Tribune Company, WGN Continental  
Broadcasting Company, and WMAQ-TV

Samuel Fifer (ARDC No. 00803006)  
Natalie J. Spears (ARDC No. 6230320)  
John R. Labbé (ARDC No. 6277836)  
SONNENSCHN NATH & ROSENTHAL LLP  
8000 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606  
(312) 876-8000

11781933V-1

154

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

18 PM 4:18

AARON PATTERSON,	)	U.S. DISTRICT COURT
	)	
Plaintiff,	)	
	)	
vs.	)	No. 03 C 4433
	)	
FORMER CHICAGO POLICE	)	Judge Gotschall
LT. JON BURGE, et al.,	)	Magistrate Judge Soat-Brown
	)	
Defendants.	)	

**DOCKETED**  
OCT 22 2004

**MOTION TO QUASH SUBPOENAS  
DIRECTED TO NON-PARTY JOURNALISTS**

Non-parties Chicago Tribune Company ("Tribune"), WGN Continental Broadcasting Company ("WGN"), and WMAQ-TV ("WMAQ") (collectively, the "Journalists") respectfully move this Honorable Court, pursuant to Federal Rule of Civil Procedure 45(c), for entry of an Order quashing the subpoenas that Defendants have issued to them (the "Subpoenas"). In support of this motion, the Journalists refer to their Memorandum in Support, and further state as follows:

1. On or about September 17, 2004, counsel for Defendants issued the Subpoenas, seeking from the Tribune: "any and all videotape footage (including audio), audio footage, and any and all documents, *including notes and transcripts*, reflecting statements made by Aaron Patterson" during interviews of Patterson "conducted between August 6, 2004 and August 19, 2004 by any reporter or employee of the Chicago Tribune"; seeking from WMAQ: "any and all videotape footage," including outtakes, and "*all documents reflecting statements made by Aaron Patterson between August 6, 2004 and August 18, 2004*"; and seeking from WGN: "any and all videotape footage," including outtakes, and "*all documents reflecting statements made by Aaron Patterson between August 6, 2004 and August 19, 2004.*" (Subpoenas, attached to accompanying Memorandum in Support as Exhibit 3 (emphasis added).)

154

2. The Subpoenas should be quashed because the materials sought here are protected by the Illinois Reporter's Privilege Act, 735 ILCS § 5/8-901, the First Amendment to the United States Constitution, and the Illinois State Constitution.

3. Compelling disclosure of the Journalists' notes, work product, tapes, and outtakes would constitute a wholly unwarranted interference with the newsgathering process, which violates not only the federal and Illinois statutory reporter's privileges prohibiting such compelled disclosure, but also the protections afforded by Federal Rule of Civil Procedure 45(c). Under Federal Rule 45(c)(3), the Court "shall" quash or modify a subpoena that "subjects a person to undue burden," Rule 45(c)(3)(A)(iv), and "may" quash or modify a subpoena that seeks "disclosure of a trade secret or other confidential research, development, or commercial information," Rule 45(c)(3)(B)(i). Both grounds for quashing the Subpoenas apply here.

4. In sum, the reporters' privilege can be divested only when the party seeking disclosure has a compelling need and can meet the exhaustion of alternative source requirements established by the Illinois Reporter's Privilege Act and constitutional guarantees of a free press, which were designed to protect the newsgathering process and reporters' materials from compelled disclosure. Those same policies support quashing the Subpoenas under Federal Rule 45(c). Defendants have not attempted to meet—and cannot meet—the requirements for compelling disclosure of the Journalists' materials here.

5. For these reasons, and as more fully set forth in the Journalists' supporting Memorandum in Support, the Subpoenas should be quashed.

WHEREFORE, non-parties Chicago Tribune Company, WGN Continental Broadcasting Company, and WMAQ-TV respectfully urge this Court to grant their motion and enter an order quashing the Subpoenas.

Dated: October 18, 2004

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

By: 

One of the Attorneys for Non-Parties Chicago  
Tribune Company, WGN Continental  
Broadcasting Company, and WMAQ-TV

Samuel Fifer (ARDC No. 00803006)  
Natalie J. Spears (ARDC No. 6230320)  
John R. Labbé (ARDC No. 6277836)  
SONNENSCHN NATH & ROSENTHAL LLP  
8000 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606  
(312) 876-8000

11781113W-1

**CERTIFICATE OF SERVICE**

I am an attorney and hereby certify that on this 18th day of October, 2004, I caused true copies of the foregoing NOTICE OF MOTION and MOTION TO QUASH SUBPOENAS DIRECTED TO NON-PARTY JOURNALISTS to be served by messenger delivery upon:

Michael Edward Deutsch G. Flint Taylor, Jr. Joey L. Mogul People's Law Office 1180 N. Milwaukee Chicago, IL 60622 (312) 235-0070	Standish E. Willis Law Office of Standish E. Willis 407 South Dearborn Street Suite 1395 Chicago, IL 60605 (312) 554-0005
Demitrus Evans 621 Sheridan Avenue Suite G Evanston, IL 60202 (847) 733-9737	Richard Thomas Sikes, Jr. Michael Paul Kornak Terrance J. Sheahan Jennifer Louise Koger Richard Bruce Levy Freeborn & Peters 311 South Wacker Drive Suite 3000 Chicago, IL 60606 (312) 360-6000
Oran Fresno Whiting Sedgwick, Detert, Moran & Arnold One North Wacker Drive Suite 4200 Chicago, IL 60606-2841 (312) 641-9050	Patrick T. Driscoll, Jr. Stephen L. Garcia Jeffrey S. McCutchan Louise R. Hegeman Paul Anthony Castiglione Cook County State's Attorney 500 Richard J. Daley Center Chicago, IL 60602 (312) 603-6461
Patricia Campbell Bobb Patricia C. Bobb & Associates 833 West Jackson Boulevard Suite 200 Chicago, IL 60607 (312) 334-3122	Joseph R. Curcio, Ltd. 161 North Clark Street Suite 2550 Chicago, IL 60610 (312) 321-1111

  
John R. Labbé